

REMARKS

The Office Action mailed July 23, 2007, and Advisory Action of October 24, 2007, have been received and reviewed. New claims 27, 28 and 29 have been added. Claims 1 – 11, 27, 28 and 29 are currently under consideration. Claims 1 – 11 stand rejected. The applicant submits the following amendments and remarks pursuant to 37 C.F.R. § 1.114. Reconsideration is respectfully requested.

Claim Amendments and New Claims:

Claims 1 and 11 have been amended to correct typographical errors and for consistency with the language of claims 1 and 2. Claim 1 has also been amended to recite that the module "form[s] a hook-like portion within the ear cavity." Support for the amendment can be found, for example, in paragraph 22 of the specification. No new matter has been added.

New claims 27, 28 and 29 have been added. Support for claim 27 can be found throughout the specification, *e.g.*, in paragraphs 07, 08 and 24 of the specification. Likewise, support for claims 28 and 29 can be found in paragraphs 18 and 17, respectively, of the specification. No new matter has been added.

Claim Rejections Under 35 U.S.C. § 103:

Claims 1, 2, 4-8, and 11 stand rejected as being unpatentable over Lampe in view of Ahn *et al.* (hereinafter "Ahn"). Neither Lampe nor Ahn, either alone or in combination, teach or suggest forming a "hook-like portion within the ear cavity." As a result, the references do not

teach or suggest all of the claim elements and cannot render the claims obvious.

In addition to failing to teach or suggest all of the claim elements, Ahn teaches silicone compositions "having unexpectedly improved adhesion ..." (emphasis added, paragraph 107, *see also* paragraphs 18 and 19). Thus, the silicon compositions of Ahn are directed to compositions having improved adhesion and the "proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, ... [thus] there is no suggestion or motivation to make the proposed modification." MPEP § 2143.01(V) citing *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984).

Reconsideration and withdrawal of the rejection are respectfully requested.

Claims 3 and 9-10 stand rejected as being unpatentable over Lampe in view of Ahn and Onohara *et al.* (hereinafter "Onohara"). As discussed herein Lampe and Ahn, either alone or in combination, do not teach or suggest all of the claim elements. Likewise, Onohara does not teach or suggest that the module "form[s] a hook-like portion within the ear cavity." Since neither Lampe, Ahn nor Onohara, either alone or in combination, teach or suggest all of the claim elements, the cited references cannot render the claims obvious.

In addition, the object of Onohara is to produce a composite material having a thermoplastic layer and a silicone layer bonded together (*see* col. 3, lines 6-28, of Onohara). Separating the silicone layer from the thermoplastic layer would render the invention being modified unsatisfactory for its intended purpose (*see* col. 7, lines 41-48). Thus, there is no motivation to combine Onohara with Lampe or Ahn. MPEP § 2143.01(V).

Reconsideration and withdrawal of the rejection are respectfully requested.

CONCLUSION

Should questions exist after consideration of the foregoing, the Examiner is kindly requested to contact the applicant's attorney at the address or telephone number given herein.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'G. Scott Dorland', written in a cursive style.

G. Scott Dorland, Ph.D.
Registration No. 51,622
Attorney for Applicant
MORRISS O'BRYANT COMPAGN
734 South 200 East
Salt Lake City, Utah 84102
Telephone: (801) 478-0071
Facsimile: (801) 478-0076